

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

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Submitted - January 25, 2010

REINALDO E. RIVERA, J.P.
JOHN M. LEVENTHAL
PLUMMER E. LOTT
LEONARD B. AUSTIN, JJ.

2007-01692

DECISION & ORDER

The People, etc., respondent,
v Jimmy Jacobs, appellant.

(Ind. No. 764/05)

Lynn W. L. Fahey, New York, N.Y. (Denise A. Corsi of counsel), for appellant, and appellant pro se.

Richard A. Brown, District Attorney, Kew Gardens, N.Y. (John M. Castellano, Ellen C. Abbot, David Foster, Bradley Chain, and Danielle Fenn of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Queens County (Latella, J.), rendered February 8, 2007, convicting him of criminal possession of a weapon in the third degree (two counts), criminal possession of stolen property in the third degree, and criminal possession of stolen property in the fourth degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

The defendant's challenge to the legal sufficiency of the evidence is unpreserved for appellate review (*see* CPL 470.05[2]; *People v Hawkins*, 11 NY3d 484, 491-492). In any event, viewing the evidence in the light most favorable to the prosecution (*see People v Contes*, 60 NY2d 620), we find that it was legally sufficient to establish the defendant's guilt beyond a reasonable doubt. Moreover, upon our independent review pursuant to CPL 470.15(5), we are satisfied that the verdict of guilt was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633).

March 2, 2010

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Contrary to the defendant's contention, his trial counsel provided meaningful representation (*see People v Satterfield*, 66 NY2d 796, 798-799; *People v Baldi*, 54 NY2d 137, 146-147).

The defendant's contentions, raised in his supplemental pro se brief, that he was deprived of a fair trial by the People's failure to provide him with certain materials in violation of *People v Rosario* (9 NY2d 286, *cert denied* 368 US 866) and by the People's delay in disclosing *Brady* material (*see Brady v Maryland*, 373 US 83) are unpreserved for appellate review, since the defendant did not seek any further relief in connection with the *Rosario* violation after the Supreme Court granted his request for an adverse inference charge, and did not raise his current claim regarding the alleged *Brady* violation in the Supreme Court. In any event, these contentions are without merit.

RIVERA, J.P., LEVENTHAL, LOTT and AUSTIN, JJ., concur.

ENTER:

A handwritten signature in cursive script that reads "James Edward Pelzer".

James Edward Pelzer
Clerk of the Court